

### REMARKS

In regard to the Examiner's rejection of claims 1-3, 7-11, and 15-18 under 35 U.S.C. 102(b) as being anticipated by Spinelli in view of Wentzell et al., and the rejection of claims 4-6, and 12-14 under 35 U.S.C. 103(a) as being unpatentable Spinelli in view of Wentzell et al., in further view of Stanish et al., '921, Applicant's invention, as now claimed, is new and non-obvious in light of the prior art.

Specifically, the Spinelli invention is a bait grinder that uses motor driven blades to cut up bait fish for chum. The device is designed to be above the water level, column 2, lines 20-22 with the ground up chum gravitationally dropping from the device through an opening 13. The Wentzell et al., device is a manual chummer that is filled with bait fish and then placed into the water and a handle is plunged and pulled vigorously the cause a blade to rotate and cut up the chum, with an added benefit that the device creates a fish attracting thrashing noise. The chum leaves the device through a series of perforations.

The Examiner states that it would have been obvious to combine the Spinelli device with the inlet and outlet ports beneath the water line as shown by Wentzell for the purpose of mixing the bait with water to output a more homogeneous mix. Applicant respectfully disagrees. Applicant by his design is not trying to output a more homogeneous mix as the mix of the output created by Applicant would be identical irrespective of whether the mix gravitationally drops out of the device above the water line or is discharged, as designed, by way of the outlet port. One of Applicant's inventive efforts are at ease of back flushing a clogged chummer during operation. Equivalently, by placing the Spinelli device into the water, adding an impeller and an inlet and outlet port would not create a homogeneous mix, but would only change the manner of discharge of the mix from gravitational discharge to subsurface discharge. If Applicant were striving to create a more homogeneous mix of chum, then his inventive intent would be directed

at the blade and cutting design not on the manner of mix output. Accordingly, combining the Spinelli device with the inlet and outlet ports beneath the water line as shown by Wentzell will not result in a more homogeneous mix and therefore, there exists no motivation to combine the teachings of Spinelli with that of Wentzell.


Additionally, Applicant respectfully disagrees with the Examiner as to the characterization of blade 36 in figure 6a as being an impeller blade that moves water. Element 36 is part of a cutting means, column 2, lines 37-39. Blade 36 remains in a horizontal plane, column 3, lines 28-40. Blade 36 is mentioned throughout the disclosure as being a "horizontal blade" column 36, lines 45, 55, 62-63, column 5, lines 34 and 38. Blade 36 is designed simply for cutting and is in no way designed to move water between an inlet port and an outlet port, especially considering that the Spinelli device is designed to remain above the water line. Wentzell does not disclose an impeller blade. Therefore, in order to arrive at Applicant's invention, the Spinelli device would need to be modified by adding an impeller blade, which is neither taught nor suggested within the disclosure or by the prior art, placing an inlet port and an outlet port on the device and placing the inlet port and the outlet port beneath the water line, placing the new impeller blade between the inlet port and the outlet port and having the impeller blade move water between the inlet port and the outlet port. Support for such modifications is neither taught nor suggested by the prior art and no motivation exists for modifying the prior art in such fashion.

In regard to the Examiner's rejection of claims 19 and 25 under 35 U.S.C. 102(b) as being anticipated by Wentzell et al., the rejection of claims 20-24 under 35 U.S.C. 103(a) as being unpatentable over Wentzell et al., in view of Spinelli and the rejection of claim 26 under 35 U.S.C. 103(a) as being unpatentable over Wentzell et al., Applicant has canceled these claims without prejudice as any amendment to such claims may result in duplication of existing claims

Therefore, Applicant's device, as now claimed, is novel and non-obvious in light of the prior art.


In view of the foregoing remarks and amendments, it is respectfully submitted that this application is now in condition for allowance, therefore an early notice to this effect is courteously solicited.

Respectfully submitted,

  
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**CERTIFICATE OF TRANSMISSION**

I HEREBY CERTIFY that the foregoing was faxed to the Commissioner of Patents and Trademarks, Art Unit 3643, fax number (703) 872-9306, this 19th day of October, 2004.

  
Peter Loffler